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Several residents attended the City Council meeting Monday. Twenty people came to address the council and more filled the court facility, occupying most of the chairs in it. About 15 people stood alongside either wall.

2 – Would Trump's rule proposal really help farmers?, E&E News, 12/17/18

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While agriculture groups celebrate Trump's WOTUS proposal, legal experts say the rule could create more headaches for farmers. By excluding more ditches from the definition of WOTUS, they say, the proposed rule could mean ditches would instead be regulated by EPA as so-called point sources of pollution.

3 — As industries circle St. James communities, some prefer buyouts to \$12M evacuation route, Baton Rouge Advocate, 12/17/18

https://www.theadvocate.com/baton_rouge/news/communities/article_806b448c-fa3b-11e8-9637-eb8fc4cd9360.html

For several years now, Brettaiene Celestin and many of her neighbors along River Road in western St. James Parish have been battling the encirclement of their Burton Street neighborhood with tank farms and the closure of their street's rear access to La. 3127.

4 – Leaky oil well near New Orleans is plugged: Coast Guard, New Orleans Times-Picayune, 12/17/18

<https://www.nola.com/environment/2018/12/leaky-oil-well-near-new-orleans-is-plugged-coast-guard.html>

The Coast Guard says a crew has plugged a well that spewed thousands of gallons of oil into water about 40 miles from New Orleans.

5 — Experts predict legal trouble for Scalia-inspired rule, E&E News, 12/16/18

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The Trump administration has broken away from its predecessors by using a 2006 opinion from the late Supreme Court Justice Antonin Scalia in a famously muddled wetlands case in a bid to limit Clean Water Act protection of isolated wetlands and waterways.

6 — 2018 in court: Climate impacts can't be ignored, E&E News, 12/18/18

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Over the past 12 months, court dockets once again filled with challenges to federal and state energy policies. Some of the lawsuits forced judges to grapple with the Trump administration's approach to climate analysis under the National Environmental Policy Act (NEPA). In a few key cases, the courts ordered federal officials to revisit their reviews.

7 – Investors pressure Exxon Mobil on climate emissions, Houston Chronicle, 12/17/18

<https://www.chron.com/business/energy/article/Investors-pressure-Exxon-to-curb-greenhouse-gas-13472230.php>

The nation's largest oil company is coming under mounting pressure from shareholders to reduce greenhouse gas emissions that accelerate climate change.

8 – Nearly 200 countries at climate talks want universal emissions rules, New Orleans Times-Picayune, 12/17/18

<https://www.nola.com/environment/2018/12/nearly-200-countries-at-climate-talks-want-universal-emissions-rules.html>

Nearly 200 countries at the U.N. climate talks have agreed upon universal, transparent rules on how nations can cut greenhouse gas emissions and curb global warming, putting the principles of the 2015 Paris climate accord into action.

9 – UNM petition backs goal for renewable energy, Albuquerque Journal, 12/16/18

<https://www.abqjournal.com/1258622/unm-petition-backs-goal-for-renewable-energy.html>

A coalition delivered a petition with 1,500 signatures collected from the UNM community in recent months to President Garnett Stokes' office recently in support of a goal that the university pursue 100 percent renewable energy by 2050.



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Bella Vista council hears smoke complaints

by Keith Bryant | Today at 1:00 a.m.

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BELLA VISTA -- Several residents attended the City Council meeting Monday.

Twenty people came to address the council and more filled the court facility, occupying most of the chairs in it. About 15 people stood alongside either wall.

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Some spoke in support of the city's trail system and to congratulate former mayor and current City Council member Frank Anderson on his retirement. His term ends Jan. 1.

The majority brought complaints regarding the burning former stump dump site off Trafalgar Road.

After the initial 30 minutes allotted for public comment, council members voted unanimously in favor of extending the public comment portion of the meeting by 30 minutes.

Among those speaking was Bella Vista resident Amber Goin, who said she was upset about a lack of response from officials and concerned for the health of her family.

"It's been 142 days today," she said. "One hundred, forty-two days of no solution, 142 days of no leadership."

Joseph Bollinger addressed the council as well, comparing the ongoing underground fire to issues faced by Flint, Mich., which has suffered from lead contaminated water and Centralia, Pa., where an underground fire has continued for decades.

Bollinger said he's concerned by high particulate matter readings in the area.

"It makes me very sad to know my 14-year-old son breathes this air every day," he said.

In addition to health concerns, Bollinger said this fire is likely to drastically affect property values.

"What proposals have you made to help these people?" he asked. "Help them now, today, tomorrow. Four months ago. These people need help and they cannot wait for government studies."

Mayor Peter Christie said he appreciated all the input citizens have brought.

"Just because the city's firefighters aren't out at the stump dump with a water hose doesn't mean the city is not ... concerned about your health and well-being," he told the audience. "This fire is not something your city officials or staff take lightly."

The fire can't simply be doused with water, he explained, because it could pollute the Lake Ann watershed.

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The city is working with the EPA and Arkansas Department of Environmental Quality, he said, and there are three options being considered to extinguish the fire, each with its own pros and cons.

Foam could put out the fire, but can also pollute the ground, he said. Trenches can be cut, but this still involves water. Another option is excavating the burning debris and taking it elsewhere to be extinguished, but he cautioned that excavation will make the air quality worse until the process concludes.

"You have to be very, very careful," he said.

In the meantime, he suggested residents continue doing what they have been: staying inside, running air filtration systems and using respirator masks outside.

"You must do what you need to do to protect your family," he said.

The council also approved Steven Bourke's appointment to the empty seat he was elected to in this year's runoff election, hiring a firm for janitorial services in city facilities and a \$3,263,961.90 contract for the construction of tunnels for the trail system using grant money.

NW News on 12/18/2018

Print Headline: Bella Vista council hears smoke complaints

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CLEAN WATER ACT

Would Trump's rule proposal really help farmers?

Ariel Wittenberg, E&E News reporter

Published: Monday, December 17, 2018



The American Farm Bureau Federation in 2014 launched its #ditchtherule campaign to explain to farmers and ranchers how the Obama administration's Clean Water Rule could extend federal reach to their lands. Wisconsin Farm Bureau Federation

When the Trump administration unveiled a new definition last week for wetlands and waterways that get Clean Water Act protection, American Farm Bureau Federation President Zippy Duvall was quick with praise.

"The Christmas present of a lifetime!" Duvall called the proposed "waters of the U.S.," or WOTUS, rule.

Farm groups had been outspoken foes of the Obama administration's Clean Water Rule, saying it would complicate farming by declaring dry ditches to be regulated waterways. And their "ditch the rule" campaign was so successful that President Trump used the slogan in a speech last year, saying, "We ditched the rule."

But while agriculture groups celebrate Trump's WOTUS proposal, legal experts say the rule could create more headaches for farmers. By excluding more ditches from the definition of WOTUS, they say, the proposed rule could mean ditches would instead be regulated by EPA as so-called point sources of pollution.

"The agriculture community has been all about getting these called non-waters," said Mark Ryan, an attorney who spent 24 years at EPA as a Clean Water Act litigator. "I would tell them be careful what you wish for."

The Trump administration's WOTUS definition would exclude most ditches, including those connected to ephemeral waterways, which are wet only after rain or snowfalls, as well as ditches built in uplands.

But the proposed rule would protect others that are dug within the banks of an intermittent or perennial tributary, or those that relocate those kinds of tributaries.

The proposal would also extend oversight to ditches built through wetlands with surface connections to intermittent or perennial tributaries.

The Obama Clean Water Rule categorized more ditches as regulated waters, because it included more waterways. But it exempted ditches that themselves had intermittent or ephemeral flows, as long as they had not relocated a natural tributary. Ditches dug in natural tributaries or relocating tributaries would be included in the Obama rule, regardless of how often water flowed through them.

The Obama rule also included ditches through wetlands it deemed jurisdictional, which encompassed many wetlands without surface connections to streams.

The Obama administration's inclusion of so many tributaries is just one reason the Farm Bureau opposed it so fiercely, said Don Parrish, the bureau's director of regulatory relations.

The group particularly took issue with the Obama rule's definition of ditches, considering them "tributaries" if they had rerouted them or were dug in them.

"It also blurred any distinction between ditches and erosion features — to the extent that only government delineators could know the difference," Parrish said.

He called the Trump proposal "a huge step in the right direction," but he added that the bureau would push for even more streams to be exempt from the final rule.

In particular, he said, the bureau believes only streams with a continuous flow of water for at least 90 days a year should be covered by the regulation. Such a definition would likely exclude even more ditches from being considered waters of the United States.

"For ease of clarity, they have to do more on that issue," Parrish said, arguing that it could be difficult to tell whether a stream that flows only a few weeks per year is fed by rain or groundwater.

"We don't think a mere trickle should be enough to sweep something into jurisdiction," he said.

Scott Yager, chief counsel at the National Cattlemen's Beef Association, agreed.

"The intentions are there for agencies to create exemptions that are functional," he said. "But we will be going over those with a fine-tooth comb to make sure they do function on the ground."

The Clean Water Act itself exempts a number of farm-related activities.

Even if a ditch were considered a water of the United States under the law, farmers wouldn't need permits for pollution for stormwater that carried pesticides or fertilizer from their fields into the ditch.

But farmers or anyone else would need a permit to spray herbicides on weeds in a ditch.

The permit would likely require a farmer to adhere to best management practices for spraying and periodic water quality sampling, Ryan said.

Those permits wouldn't be needed if the ditch is no longer considered a WOTUS — a fact Sen. Mike Rounds (R-S.D.) celebrated during his remarks at the WOTUS signing ceremony at EPA last week.

"For me, this means that a county in South Dakota won't have to get a permit to spray on weeds in a ditch," he said.

Ditches as point sources

But if it's not a WOTUS, a ditch could be considered a "point source" if it conveys pollution to a water that is protected under the Clean Water Act.

That means it could require a National Pollutant Discharge Elimination System permit under the Clean Water Act — which could be even more of a headache for ditch owners.

"You could spray all the weeds you want to spray, but if any of that flows through the ditch into a jurisdictional water, you could very likely have to treat that wastewater," said Ken Kopocis, who led the Obama EPA's Office of Water. "Exempting all these ditches I don't think creates the kind of clarity they claim."

Larry Liebesman, a former Department of Justice attorney who is now a senior adviser with Washington water resources firm Dawson & Associates, agreed.

"It could potentially be a headache," he said. "If it's an upland ditch, you don't have to worry about it. But if it's in any way transmitting some flow — even only after rainfall — to a larger waterway, I would be concerned about the ditch being considered a discharge. It doesn't make landowners' lives any easier."

NPDES permits put limits on the amount of pollutants that can be discharged into a jurisdictional water. They often require the installation of treatment systems, which can be much more expensive to comply with than a permit for spraying pesticides into a water of the United States.

"I'd much rather own a WOTUS," Ryan said.

The Clean Water Act does exempt discharges "comprised entirely" of agricultural stormwater and return irrigation water from needing NPDES permits. But a ditch wouldn't fall into that category if pesticides were applied directly to it and then made their way to a perennial waterway or other jurisdictional stream.

Not all ditches are owned by the farmers whose fields they abut. In the West especially, it's not uncommon for a municipal ditch to circumvent a farm and a city before discharging into a nearby waterway. Such a ditch would include stormwater and discharges from sources other than agriculture, meaning it would still require a Clean Water Act discharge permit.

The Trump WOTUS proposed rule explicitly states, "The status of ditches as 'point sources' ... would not be affected by today's proposed rule."

Ryan, who left EPA in 2014, said the Trump administration's rule is not alone in potentially converting ditches from WOTUS to point sources.

He said he was shocked in 2015 when the final version of the Obama administration's rule came out and exempted ditches built in uplands with an intermittent flow.

"It was an attempt to make agriculture interests happy, and I didn't think they thought through the point source issue back then, either," he said.

The Farm Bureau's Parrish noted that farmers have long had to comply with Clean Water Act requirements for point sources, and said he's "not sure about why some are now concerned."

"Ditches have been defined in statute as point sources since 1972," he noted. "What additional liabilities are they referring to or concerned about?"

He said the Obama administration's definitions for which ditches were considered jurisdictional were so confusing that farmers were worried that ditches would both be considered waters of the United States and require NPDES permits.

Under the Trump rule, he said, the distinction would be clearer.

The administration's critics, he said, "are just trying to confuse the issue."

Yager hasn't yet reviewed the Trump proposal closely enough to say whether he's worried about ditches suddenly needing point source permits under the rule.

But his association has been closely following litigation about whether discharges into groundwater that make their way to surface water require NPDES permits ([Greenwire](#), Dec. 4).

The Supreme Court is considering whether to take up the question, and Yager said his group is generally concerned about a situation "where you have a more narrow definition of WOTUS and a broader definition of a point source."

"That's something, as a general matter, that is definitely at the top of our minds," he said.

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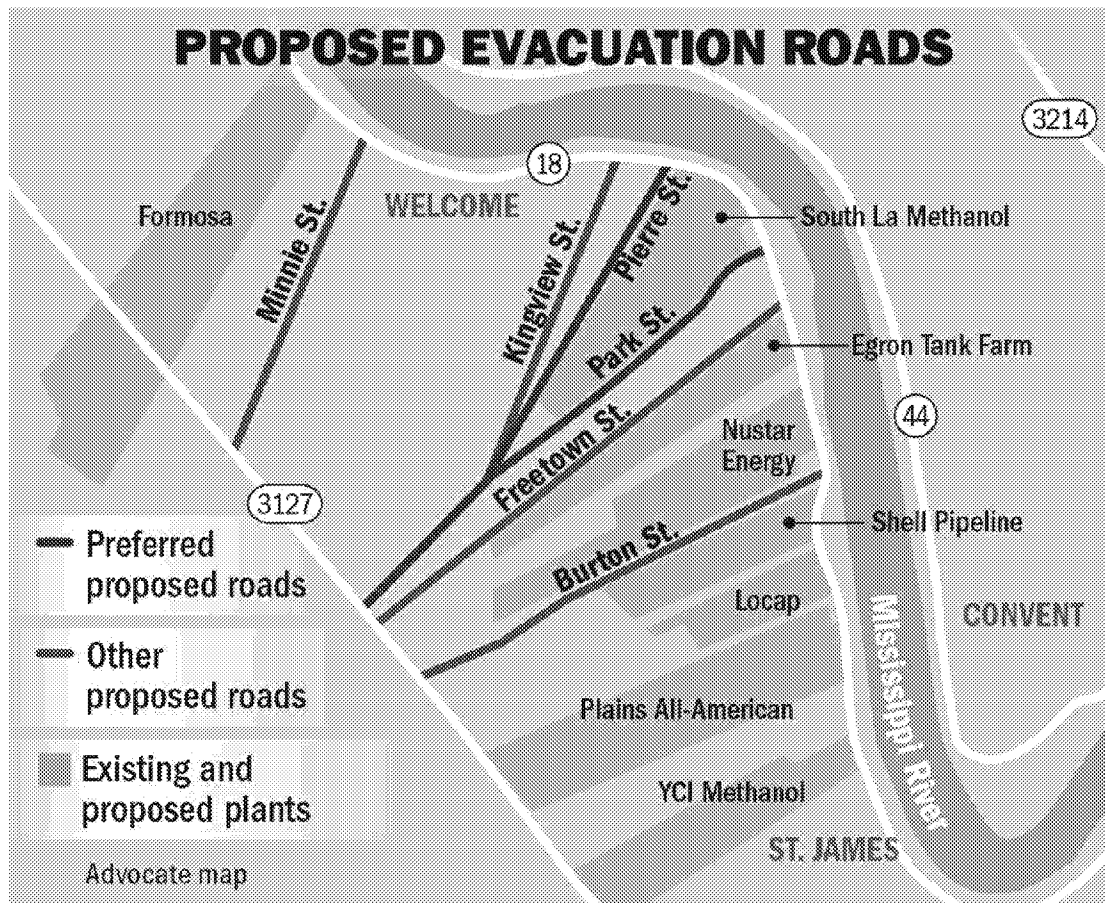
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As industries circle St. James communities, some prefer buyouts to \$12M evacuation route

BY DAVID J. MITCHELL | DMITCHELL@THEADVOCATE.COM DEC 17, 2018 - 4:51 PM



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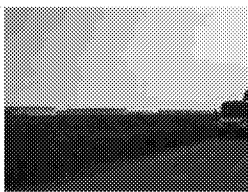
David Mitchell

ST. JAMES — For several years now, Brettaiene Celestin and many of her neighbors along River Road in western St. James Parish have been battling the encirclement of their Burton Street neighborhood with tank farms and the closure of their street's rear access to La. 3127.

Celestin said her family once owned some of the land where Burton Street ran and can't understand how the road was allowed to be shut off a few years ago without a plan for many of Burton's elderly and homebound residents to escape should a chemical incident occur.

"How (are) you going to get them out," the 68-year-old asked during a recent interview at her home.

Story Continued Below



Residents living on quaint country roads in St. James Parish pushing for evacuation routes

That concern and billions of dollars in new industrial projects poised to convert more of this rural area along the Mississippi River into an industrial zone interlaced with small, largely poor, black neighborhoods prompted parish leaders earlier this year to start pursuing a new, inland evacuation route away from the river.

The answer parish leaders recently got back were two routes north of Burton. Neither would be cheap to build.

GSA Consulting Engineers looked at six potential routes, including opening Burton back up, and settled on Park and Pierre streets to the north of the Burton neighborhood.

Extending and widening either one of the narrow, dead-end roads through cane fields and wetlands and over the Union Pacific Railroad line, oil and gas pipelines and the St. James Canal is estimated at more than \$12 million, a GSA report says.

The feasibility study had targeted a more than 12-mile stretch of River Road between La. 3219 and La. 70 at the Sunshine Bridge. Both of those highways already reach La. 3127, a major, inland north-south highway parallel to River Road. But no other east-west roads inside the targeted zone offer available, public access to La. 3127.

Park Street passes by a parish park and community center while Pierre Street leads to a small clutch of homes owned by one family or their extended heirs. A representative of some of the family says they will consider selling. Both roads stop before broad expanses of agricultural land and frame the boundaries of the proposed \$1.3 billion South Louisiana Methanol complex.

With the feasibility study's conclusions, Parish President Timmy Roussel said the parish's next step is to meet on Jan. 16 with area industry officials who have already committed to help build the road to see what they can offer. Roussel said he will then share those commitments with the Governor's Office and other state officials to see how the state could also help.

"So we sit down with those guys, and we define it and we go from there," Roussel said.

He said the parish can't afford to pay for the future road in its entirety, though the parish is setting aside \$100,000 in its 2019 budget for engineering of the new road the parish is now calling an "alternate access route."

Gov. John Bel Edwards said in an interview last week he had directed Transportation Secretary Shawn Wilson; Jim Waskom, director of the Governor's Office of Homeland Security and Emergency Preparedness; and Chuck Carr Brown, secretary of the state Department of Environmental Quality, to meet with parish officials about the route and to examine the alternatives. Edwards said the state has not made a commitment for funding because the state hasn't been asked for a specific amount yet.

"But it's something we'll be working on with them," the governor said.

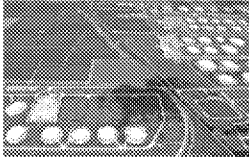
The feasibility study's findings also come as community opposition has been stirred over a \$9.4 billion industrial complex proposed by Formosa Chemical in the Welcome area, despite support from Edwards and parish leaders like Roussel and Formosa's promises to help with the evacuation route.

Some residents and environmentalists have filed an appeal of a key parish land use approval for Formosa. The Parish Council is set to hear the appeal 6 p.m. Wednesday at the Courthouse Annex in Vacherie.

In addition to the major chemical facilities headed to the area, the eastern terminus of the Bayou Bridge Pipeline, a controversial crude oil line that has sparked protest and litigation along its 162-mile route, ends near the Burton Street area.

In April, a state district court judge ordered the Louisiana Department of Natural Resources to require the pipeline owners to develop “effective environmental protection and emergency or contingency plans” in case of a spill or other disaster in area. The ruling remains on appeal and recently had a rehearing before a five-judge panel of the Louisiana 5th Circuit Court of Appeal.

DNR has allowed construction to continue during the appeal. Roussel has said that the lower court ruling wasn't another motivation for the alternate access route.



Despite challenges in courtrooms and at work sites, construction on Bayou Bridge Pipeline rolls along

Delivered to the Parish Council late last month, the GSA report details how the engineers went through other possible routes and found them less than satisfactory or not in line with the preferences of parish officials.

Although Park and Pierre streets are among the longest, at more than 4 miles, and most expensive options, they are also the most centrally located to the Welcome area, a wish of parish officials.

The shortest and cheapest route with the fewest pipeline and utilities conflicts is Minnie Street. Located between the Welcome community and the proposed Formosa site, that route would cost \$6.95 million to build, GSA estimated. But Minnie Street is on the far northern end of the area being studied and is too far from the central location parish officials are seeking, the report found.

Two other centrally located roads, Burton and Freetown streets, would also be somewhat cheaper to build, the report found, but Burton has a major drainage ditch and pipeline running parallel to it that could limit its design.

The Freetown route has more than two dozen land parcels, most of them residential, that the parish would need to buy. Burton and Kingview streets would also require the purchase of a significant number of residential properties, the GSA report says.

In a recent interview, Celestin and a handful of other Burton Street residents were less than enthused about the parish's options, questioning how elderly residents who can't walk would be able to reach an evacuation route about a mile away. Some suggested Burton should be extended too, though the cost would be an additional \$8.75 million.

For Celestin, the final answer is a buyout of her community, despite the unfairness she sees in having to leave the place where she grew up and has always lived.

“I would not leave this place, but this place now is leaving me,” Celestin said.

Wanhua to move forward with \$1.25 billion chemical plant, selects Convent site



Advocacy group appeals key land use decision for Formosa complex proposed for St. James Parish

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Updated Dec 17, 8:30 PM;

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By The Associated Press

The Coast Guard says a crew has plugged a well that spewed thousands of gallons of oil into water about 40 miles from New Orleans.



Petty Officer Lexie Preston says the leak began Dec. 9. It was stopped Wednesday. The plug ensures that it can't restart.

Preston says something damaged the wellhead, and investigators are looking into the cause.

The spill was in part of Plaquemines Parish that's more water than land.

A Coast Guard news release says nearly 9,300 gallons of oil spewed into Lake Washington from the well owned by Hilcorp Energy Co. of Westwego. It says about 10,000 gallons of oily water has been recovered so far.

The Louisiana Department of Wildlife and Fisheries is rescuing oiled wildlife.

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OIL AND GAS

2018 in court: Climate impacts can't be ignored

Pamela King, E&E News reporter • Published: Tuesday, December 18, 2018



Courts this year asked federal agencies to consider the climate implications of President Trump's energy policies. Photo: Stockii, Nazmi El Saleous and Marit Jentoft-Nissen/ASA Goddard Space Flight Center

Over the past 12 months, court dockets once again filled with challenges to federal and state energy policies.

Some of the lawsuits forced judges to grapple with the Trump administration's approach to climate analysis under the National Environmental Policy Act (NEPA). In a few key cases, the courts ordered federal officials to revisit their reviews.

"Courts are showing little patience for the approach of saying, 'Gee, we just don't know how much greenhouse gas emissions are associated with a project,'" said David Hayes, executive director of the State Energy & Environmental Impact Center and a former Interior Department official under the Obama and Clinton administrations.

Green groups have signaled that they don't just want meatier NEPA analyses. They also want agencies to choose, as a result of those reviews, alternative actions that impose fewer environmental and climate risks.

Many of this year's legal findings have focused on getting climate analysis on the record. But judges have at times questioned whether requiring federal agencies to conduct more in-depth reviews will address environmentalists' true criticisms.

During recent oral arguments before the U.S. Court of Appeals for the District of Columbia Circuit, Judge Gregory Katsas, a Trump appointee, asked what would happen if the court required the Federal Energy Regulatory Commission to analyze an alternative to a natural gas transport project ([Energywire](#), Dec. 14).

What if the agency conducted that study and still decided to move forward with its original proposal, he asked.

"A finding of impacts doesn't require a halting of the project because NEPA doesn't mandate any particular outcome," said BakerHostetler attorney Mark Barron. "It just requires that the decisionmaking be informed."

As long as there is a comprehensive analysis that identifies climate impacts, "that should satisfy NEPA," he said.

Not so, say environmental advocates. Groups like WildEarth Guardians that have challenged federal energy policies in court want to hold the Trump administration accountable to recent findings in the National Climate Assessment and a U.S. Geological Survey report.

Those documents, released over the Thanksgiving holiday, found that climate change could shrink the economy by up to 10 percent by the end of the century and that a quarter of warming-inducing emissions come from energy production on public lands ([Climatewire](#), Nov. 23; [Climatewire](#), Nov. 27).

"Together, these reports probably provide more support for our arguments than ever before," said Jeremy Nichols, director of WildEarth Guardians' climate and energy program.

Public lands



Judges required the Bureau of Land Management to take a harder look at climate impacts during the process of leasing public lands to oil, gas and coal developers. [Playboy](#)

The courts this year required the Bureau of Land Management to take a harder look at climate impacts during the process of leasing public lands to oil, gas and coal developers.

Judges ruled in three leasing cases in Montana, New Mexico and Colorado that BLM should consider alternative uses of public lands and do a better job of analyzing downstream emissions ([Energywire](#), Dec. 5).

"Amazingly, notwithstanding these court losses, the BLM continues to sidestep disclosure of climate impacts, especially on the oil and gas side of things and especially when it comes to leasing," said Nichols of WildEarth Guardians. "They continue to prepare environmental analyses where they minimize climate concerns, try to avoid disclosure of emissions and avoid any acknowledgment of carbon costs."

The group is watching BLM's approach on climate review in New Mexico's portion of the Permian Basin, where Interior this year hosted a blockbuster, \$1 billion lease sale ([Greenwire](#), Sept. 7).

"Despite the boom taking place there and very serious climate concerns, BLM is still refusing to calculate indirect emissions, minimizing climate concerns, ignoring climate costs and overlooking the cumulative climate impacts of leasing," Nichols said.

While climate is a common thread in several of the leasing challenges that BLM faces, the message from the courts isn't necessarily one-size-fits-all, said Barron of BakerHostetler.

"The accuracy of impact analysis really is more project-specific than I think some of the courts have observed," he said.

In cases like the Montana leasing lawsuit, which dealt with resource management plans for the coal-rich Powder River Basin, calculating downstream impacts may be more feasible when the mineral in question is being purchased by a specific power plant, Barron said ([Energywire](#), March 26). Asking for a full review of downstream emissions for a general oil and gas lease sale may be less realistic, he said, because there's no way to know how much fuel will be purchased and how exactly it will be combusted.

"Calculating accurate estimates for NEPA purposes is not necessarily plausible" in those cases, Barron said.

The courts this year struck down multiple attempts by the Trump administration to suspend Obama-era standards for methane emissions from oil and gas operations on federal and tribal lands.

This fall, President Trump's BLM issued a revised methane rule, the merits of which will be subject to a fresh round of legal action. Just hours after BLM released the language of the revised 2016 Methane and Waste Prevention Rule, the states of California and New Mexico filed a lawsuit ([Energywire](#), Sept. 19).

That round of litigation will focus on climate impacts not from a NEPA perspective but from a cost-benefit standpoint. The Trump administration's approach to climate analysis drastically tipped the scales in favor of its revised rule, which BLM said would result in maximum total net benefits of roughly \$1.08 billion over 10 years.

During the Obama administration, BLM calculated that the 2016 rule would carry annual net benefits of between \$46 million and \$204 million. Those benefits were contingent on avoiding the social cost of emitting methane, a potent greenhouse gas, into the atmosphere.

"Defendants' reliance on an 'interim domestic social cost of methane' model is arbitrary and capricious for multiple reasons, including that it is outcome-seeking; fails to take into account the best available science; undervalues the benefits of the Rule (including benefits to public health and safety), apparently to justify repeal; fails to adequately address risk and uncertainty; and ignores significant climate impacts," the state attorneys general wrote in their September [lawsuit](#).

Industry groups enmeshed in the litigation have promised to back the Trump rule every step of the way.

"Methane regulation should be handled by the EPA," said Mallori Miller, director of government relations for the Independent Petroleum Association of America. "There's nothing in the Mineral Leasing Act that stipulates methane regulation should be handled in the BLM. This was a step over the line by the Obama administration."

Trump's EPA is in the process of scaling back its own methane standards ([Greenwire](#), Sept. 11).

Pipelines



The Keystone XL oil pipeline was sidelined after a judge ordered more National Environmental Policy Act review. A protester holds a sign in front of the White House in 2017. Emma Cassidy/Tars and Action/Flickr

A federal judge this year ordered the government to take a closer look at climate impacts from the Keystone XL pipeline after Trump revived the project shortly after taking office.

The Trump administration did not do a good enough job of analyzing emissions — and other impacts — from the 1,200-mile conduit, which would carry Canadian crude to the Gulf of Mexico, Judge Brian Morris for the U.S. District Court for the District of Montana found.

A Nov. 8 preliminary injunction from the judge effectively halted construction on the pipeline until Trump's State Department can offer a better defense for why it brought the project back to life after former President Obama nixed it ([Energywire](#), Nov. 9).

Opponents of the pipeline applauded the ruling, but they raised concerns over the developments that followed a separate order from the judge. Morris, an Obama appointee, earlier in the year required the State Department to redo its NEPA analysis of Keystone XL's alternative route through Nebraska.

State Department officials quickly handed back a document that groups like the Sierra Club denounced as a "sham review" ([Greenwire](#), Sept. 24).

Some legal experts questioned whether Morris' ruling imposed too great a burden.

"It's hard to say that more information is bad, but when you have a NEPA process already taking over five years on average, there has to come a point where there's a diminishing return on value," said James Coleman, an energy law professor at Southern Methodist University.

Individual challenges may ultimately be effective in stopping pipelines' progress, he said, but requiring granular analysis of each project may not be a worthwhile pursuit. In the case of Keystone XL, for example, Morris required the State Department to revisit its assessment of the pipeline's market impacts in light of the fact that oil prices had nearly halved since the Obama administration completed its analysis in 2014.

"I just don't believe that we can say anything valuable enough about any specific pipeline to say that that's going to influence the decision we make on it," Coleman said.

Developers of the 600-mile Atlantic Coast natural gas pipeline from West Virginia to North Carolina also opted to halt construction this year amid a set of unfavorable rulings out of the 4th U.S. Circuit Court of Appeals ([Energywire](#), Dec. 10). Those rulings pertained to the project's forest crossings and impact to species along the pipeline route.

While states have control over oil pipeline authorizations, gas pipelines are subject to FERC approval. The agency's pipeline authorization process itself has also been the focus of recent legal scrutiny.

FERC this year announced in a procedural document that it would narrow its approach to considering and disclosing upstream and downstream greenhouse gas emissions associated with the projects under its oversight ([E&E News PM](#), May 18).

Attorneys general for six states and the District of Columbia this month called on the D.C. Circuit to uphold its 2017 finding in *Sierra Club v. FERC* that greenhouse gas emissions are a "reasonably foreseeable consequence" of fossil fuel projects.

"In *Sierra Club*, this Court rejected FERC's willful blindness towards the indirect and cumulative downstream impacts of a proposed natural gas infrastructure project on greenhouse gas emissions," they wrote in a recent [brief](#) filed with the D.C. Circuit. "Instead, this Court held that downstream combustion of natural gas

transported by a natural gas infrastructure project — combustion that generates electricity and carbon dioxide that contributes to global climate change — is not only reasonably foreseeable, but 'is the project's entire purpose.'"

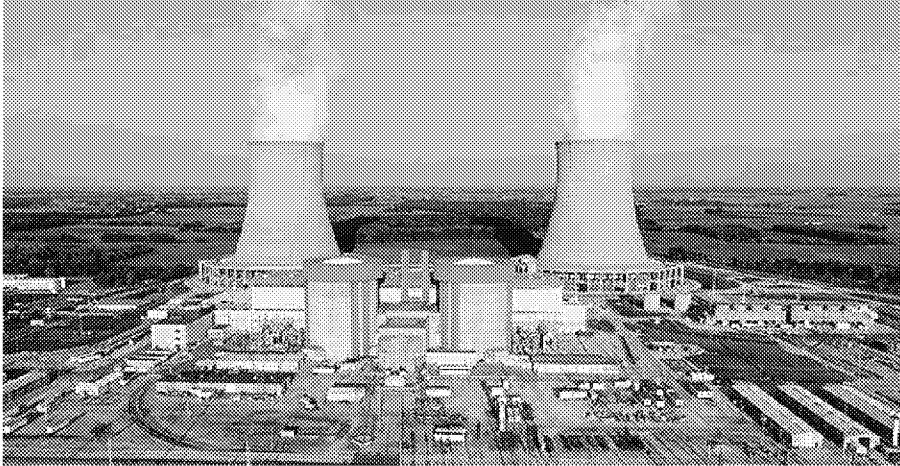
FERC's policy shift drew lots of attention — both for its substance and for the way it was announced.

"It seemed very strategic to try to evade opposition and scrutiny," said Ari Peskoe, director of Harvard Law School's electricity law program.

Clearly that strategy didn't work, because the policy is now before the D.C. Circuit, he said.

"We'll see if it sticks," Peskoe said.

Electricity



Exelon Corp.'s Byron Generating Station in Illinois, where an appellate court this year upheld a nuclear subsidy program. Exelon

Two appellate courts recently upheld state autonomy in clean energy policymaking, but some state officials this year worried that their emissions-cutting efforts could be eclipsed by Trump-era policies.

The 7th U.S. Circuit Court of Appeals this fall ruled in favor of Illinois' zero-emission credit (ZEC) program, which incentivizes nuclear power. Two weeks later, the 2nd Circuit upheld a similar program in New York.

Both rulings cited the Supreme Court's finding in *Hughes v. Talen Energy Marketing LLC* that the Federal Power Act pre-empts state laws that interfere with interstate auctions.

"As long as you don't do that, states have pretty wide flexibility to design policies to achieve a clean energy goal," Peskoe said.

Attorneys for the Electric Power Supply Association, which challenged the ZEC programs, could soon bring one of the cases to the Supreme Court.

States have also pledged to sue the Trump administration if it follows through with its plans to replace the Obama-era Clean Power Plan. Trump's EPA unveiled its proposed replacement, the Affordable Clean Energy (ACE) rule, in August.

The Clean Power Plan, meanwhile, sits on ice after a February 2016 stay from the Supreme Court.

The proposed ACE rule is in conflict with states' efforts to limit emissions from coal-fired power plants, 19 attorneys general wrote in recent comments ([Energywire](#), Nov. 2).

"Although EPA has previously acknowledged the need for urgent reductions in greenhouse gas emissions, EPA's proposed rule does not, nor does it explain the rationale for its apparent reversal," they wrote.

"States and Cities, by contrast, are acting to address the threat posed by climate change."

Proponents of the ACE rule say the Clean Power Plan exceeded federal authority.

"The ACE Rule would restore the rule of law and empower states to reduce greenhouse gas emissions and provide modern, reliable, and affordable energy for all Americans," acting EPA Administrator Andrew Wheeler said in August.

Trump is expected to release the final ACE rule in March.

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Investors pressure Exxon Mobil on climate emissions

Marissa Luck, Houston Chronicle Updated 8:53 pm CST, Monday, December 17, 2018



Attendees stand near Exxon Mobil Corp. signage during a conference in Washington, D.C., on Tuesday, June 26, 2018.

The nation's largest oil company is coming under mounting pressure from shareholders to reduce greenhouse gas emissions that accelerate climate change.

Institutional investors in Exxon Mobil filed a resolution Monday calling on the Irving company to set and disclose greenhouse gas reduction targets for its products and operations, according to New York State Comptroller Thomas DiNapoli. His office, a trustee of the New York State Common Retirement Fund, and the Church of England's investment fund are leading the effort.



at a time when other energy companies
sions. Royal Dutch Shell, for example,
agreed to link executive pay to

HoustonChronicle.com: Exxon sued by New York AG for deceiving investors on
climate change

"Exxon Mobil's lack of GHG (greenhouse gas) emissions reduction targets puts it at
odds with its industry peers that have taken such steps," DiNapoli said in a statement.
"The world is transitioning to a lower carbon future, and Exxon needs to demonstrate its
ability to adapt or risk its bottom line along with investors' confidence."

Shareholders are expected to vote on the resolution at Exxon Mobil's annual meeting in
the spring. Other investors supporting the resolution include California Public

investors and more than \$32 trillion under management. The initiative aims to put pressure on the largest emitters of greenhouse gases to fight climate change.

"Global investors are increasingly calling on the companies that they own to demonstrate that they are prepared for a carbon-constrained future," Andrew Logan, director of oil and gas at the sustainability nonprofit organization Ceres, said in a statement. "Setting ambitious goals consistent with the Paris Agreement to reduce heat-trapping greenhouse gas emissions – and taking concrete steps to actualize those goals – would be a sign to investors that Exxon is taking this issue seriously."

On HoustonChronicle.com: Shell links climate change goals to executive pay

Previously the New York State Common Retirement Fund and the Church of England investment fund filed a resolution asking Exxon Mobil to disclose the impact of measures to combat climate change on the company's business. After the resolution won 62 percent support from shareholders, the company started reporting the risks and impact of climate change.

Exxon Mobil, which previously was sued by investors who argued the company downplayed the risks of climate change, declined to comment on the new shareholder resolution.

The company, however, has taken steps on climate change recently. Earlier this year, Exxon Mobil said it was taking steps to reduce emissions of methane, one of the most powerful greenhouse gases, across all of its operations. The company said it aimed to reduce methane emissions by 15 percent in 2020 and to decrease flaring – the process of burning off excess natural gas, which is primarily methane – by 25 percent compared to 2016 levels.

And it recently struck a 12-year agreement with the Danish energy company, Ørsted (previously DONG Energy), to buy wind and solar power for its Permian Basin operations. It is the largest-ever renewable power contract signed by an oil company,

according to Bloomberg New Energy Finance, a research arm of Bloomberg focus

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Nearly 200 countries at climate talks want universal emissions rules

Updated Dec 16;

Posted Dec 16



Heads of the delegations react at the end of the final session of the COP24 summit on climate change in Katowice, Poland, Saturday, Dec. 15, 2018. (AP Photo/Czarek Sokolowski) (The Associated Press)

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By The Associated Press



KATOWICE, Poland — Nearly 200 countries at the U.N. climate talks have agreed upon universal, transparent rules on how nations can cut greenhouse gas emissions and curb

global warming, putting the principles of the 2015 Paris climate accord into action.

But to the frustration of environmentalists and a group of countries who were urging more ambitious climate goals, negotiators on Saturday delayed decisions on two other climate issues until next year in an effort to get a deal on them.

"Through this package, you have made a thousand little steps forward together," said Michal Kurtyka, a senior Polish official chairing the talks.

He said while each individual country would likely find some parts of the agreement it didn't like, efforts had been made to balance the interests of all parties.

"We will all have to give in order to gain," he said. "We will all have to be courageous to look into the future and make yet another step for the sake of humanity."

The talks in Poland took place against a backdrop of growing concern among scientists that global warming on Earth is proceeding faster than governments are responding to it. Last month, a study found that global warming will worsen disasters such as the deadly California wildfires and the powerful hurricanes that have hit the United States this year.



And a recent report by the Intergovernmental Panel on Climate Change, or IPCC, concluded that while it's possible to cap global warming at 1.5 degrees Celsius (2.7 degrees Fahrenheit) by the end of the century compared to pre-industrial times, this would require a dramatic overhaul of the global economy, including a shift away from fossil fuels.

Alarmed by efforts to include this in the final text of the meeting, the oil-exporting nations of the U.S., Russia, Saudi Arabia and Kuwait blocked an endorsement of the IPCC report mid-way through this month's talks in the Polish city of Katowice. That prompted uproar from vulnerable countries like small island nations and environmental groups.

The final text at the U.N. talks omits a previous reference to specific reductions in greenhouse gas emissions by 2030, and merely welcomes the "timely completion" of the IPCC report, not its conclusions.



Last-minute snags forced negotiators in Katowice to go into extra time, after Friday's scheduled end of the conference had passed without a deal.

One major sticking point was how to create a functioning market in carbon credits. Economists believe that an international trading system could be an effective way to drive down greenhouse gas emissions and raise large amounts of money for measures to curb global warming.

But Brazil wanted to keep the piles of carbon credits it had amassed under an old system that developed countries say wasn't credible or transparent.

Among those that pushed back hardest was the United States, despite President Donald Trump's decision to pull out of the Paris climate accord and his promotion of coal as a source of energy.

"Overall, the U.S. role here has been somewhat schizophrenic — pushing coal and dissing science on the one hand, but also working hard in the room for strong transparency rules," said Elliot Diringer of the Center for Climate and Energy Solutions, a Washington think tank.



When it came to closing potential loopholes that could allow countries to dodge their commitments to cut emissions, "the U.S. pushed harder than nearly anyone else for transparency rules that put all countries under the same system, and it's largely succeeded."

"Transparency is vital to U.S. interests," added Nathaniel Keohane, a climate policy expert at the Environmental Defense Fund. He noted that breakthrough in the 2015 Paris talks happened only after the U.S. and China agreed on a common framework for transparency.

"In Katowice, the U.S. negotiators have played a central role in the talks, helping to broker an outcome that is true to the Paris vision of a common transparency framework for all countries that also provides flexibility for those that need it," said Keohane, calling the agreement "a vital step forward in realizing the promise of the Paris accord."

Among the key achievements in Katowice was an agreement¹ on how countries should report their greenhouses gas emissions and the efforts they're taking to reduce them. Poor countries also secured assurances on getting greater



predictability about financial support to help them cut emissions, adapt to inevitable changes such as sea level rises and pay for damages that have already happened.

"The majority of the rulebook for the Paris Agreement has been created, which is something to be thankful for," said Mohamed Adow, a climate policy expert at Christian Aid.

"But the fact countries had to be dragged kicking and screaming to the finish line shows that some nations have not woken up to the urgent call of the IPCC report" on the dire consequences of global warming.

In the end, a decision on the mechanics of an emissions trading system was postponed to next year's meeting. Countries also agreed to consider the issue of raising ambitions at a U.N. summit in New York next September.

Canada's Environment Minister Catherine McKenna suggested there was no alternative to such meetings if countries want to tackle global problems, especially as multilateral diplomacy is under pressure from nationalism.

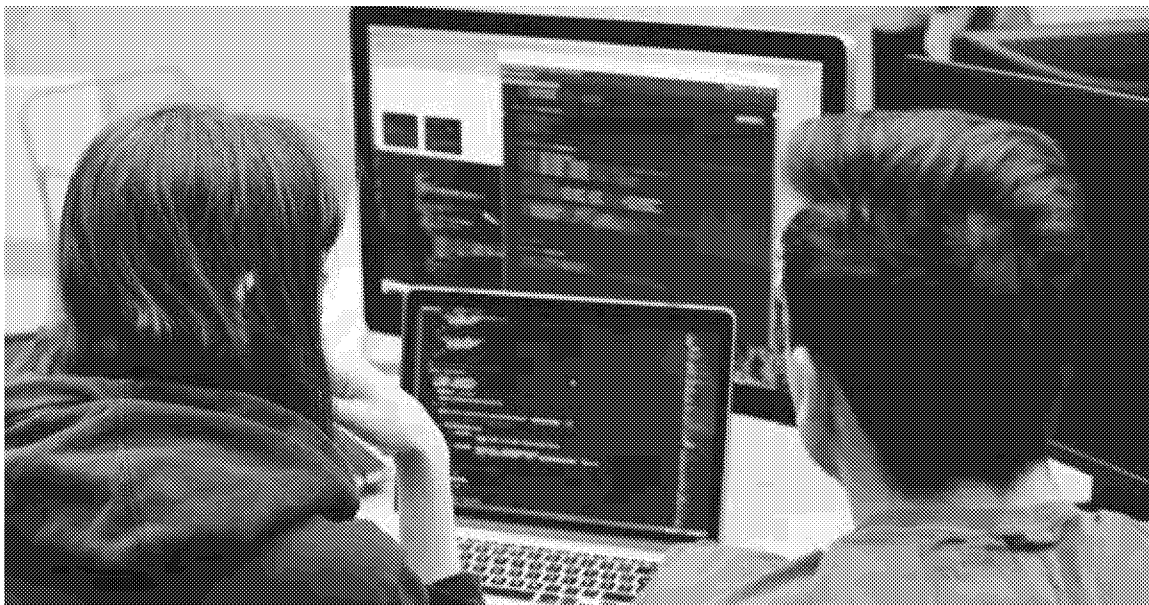


“The world has changed, the political landscape has changed,” she told The Associated Press. “Still you’re seeing here that we’re able to make progress. We’re able to discuss the issues. We’re able to come to solutions.”

- By Frank Jordans, Associated Press

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UNM petition backs goal for renewable energy

By Steve Knight / Journal Staff Writer

Tuesday, December 18th, 2018 at 12:05am

ALBUQUERQUE, N.M. — A coalition delivered a petition with 1,500 signatures collected from the UNM community in recent months to President Garnett Stokes' office recently in support of a goal that the university pursue 100 percent renewable energy by 2050.

"We're here to make it clear that we have the power to create a more sustainable future," Environment New Mexico's Erin Pang in a statement. "Fifteen hundred UNM community members have signed our petition, showing overwhelming support for UNM becoming a leader in sustainability in New Mexico."

Those delivering the petition, besides Environment New Mexico, included University of New Mexico faculty members, student government representatives and student group leaders.

During a news conference on campus, students and faculty members unveiled a "Renewable Energy 101" toolkit, fact sheets detailing tools that universities can use to transition to renewable energy, and case studies of universities that have used the tactics.

The UNM student senate recently passed a resolution in favor of the goal of 100 percent renewable energy by 2050.

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